S.B. CIVIL WRIT PETITION NO.968/2005

Prabhu Das vs. Vidhyavati and others.

Date : 17.2.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. S.D. Purohit, for the petitioner.

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Heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that the plaintiff filed suit for eviction against the petitioner under the provisions of Rajasthan Premises (Control of Rent and Eviction) Act, 1950 and without withdrawing the suit, he submitted another suit for eviction on the same ground of bonafide necessity before the Rent Control Tribunal under the provisions of Rajasthan Rent Control Act, 2001 (for short the “Act of 2001”). However, learned counsel for the petitioner submits that one more ground was only added by the plaintiff/respondent in the subsequently instituted suit.

According to learned counsel for the petitioner, the petitioner/defendant took objection before the Tribunal about maintainability of the suit in view of the earlier filed suit but the Tribunal is proceeding with the suit.

It appears that the petitioner has raised this objection in his written statement but the petitioner did not pursue his objection before the Court till now

as neither the Tribunal has decided the issue whether the suit cannot proceed in view of the pendency of the earlier filed suit nor any application is filed by the petitioner so that the Tribunal can consider the objection of the petitioner.

In view of the above, since there is no order impugned in this writ petition, no relief can be granted to the petitioner.

Learned counsel for the petitioner that he will submit appropriate application before the Tribunal. For that purpose, no permission is needed. He is free to do so.

Accordingly, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya